

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA ex rel.
JULIUS M. ENGEL,

Plaintiff,

v.

TANI CANTIL-SAKAUYE,

Defendants.

Case No. 2:20-cv-00893-JAM-JDP (PS)

FINDINGS AND RECOMMENDATIONS TO
GRANT DEFENDANT'S MOTION TO
DISMISS PLAINTIFF'S FIRST AMENDED
COMPLAINT

ECF No. 12

OBJECTIONS DUE WITHIN 14 DAYS

Plaintiff was a California-licensed attorney. Following the State Bar of California's recommendation that he be disbarred, he petitioned for review to the Supreme Court of California. His petition was denied in an order signed by defendant, the Chief Justice. Plaintiff then brought this lawsuit, alleging various misdeeds during the process leading to his disbarment. Under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6), defendant now moves to dismiss plaintiff's first amended complaint for lack of subject-matter jurisdiction, judicial immunity, and failure to state a claim upon which relief can be granted.¹ ECF No. 12 at 2.

Background

In California, the Supreme Court has the final word in all attorney discipline cases

¹ Plaintiff filed the initial complaint on May 1, 2020. ECF No. 1. On October 28, 2020, he moved to amend, ECF No. 8, and filed his amended complaint, ECF No. 9.

1 involving suspension or disbarment. In 2013 and 2015, the State Bar brought two cases of
 2 misconduct against plaintiff, at least one of which resulted in the suspension of his license. ECF
 3 No. 1 at 3-4. In 2018, pending plaintiff's trial on additional charges of misconduct, the State Bar
 4 placed him on involuntary inactive status. *Id.* at 3. Following the State Bar's recommendation
 5 that he be disbarred, defendant—acting in her role as Chief Justice, and on behalf of the Supreme
 6 Court of California—signed the order denying plaintiff's petition for review. *Id.* at 4; *see also*
 7 *Engel on Discipline*, No. S259986 (Cal. April 1, 2020). Plaintiff did not seek review in the
 8 United States Supreme Court, but rather filed this suit. ECF No. 1 at 2-3. Plaintiff claims that
 9 defendant's actions violated the False Claims Act, the Racketeer Influenced Corrupt
 10 Organizations Act, and the Fourteenth Amendment's Due Process and Equal Protections Clauses.
 11 *Id.* at 2.

12 **12(b)(1) Motion to Dismiss Standards**

13 Under Federal Rule of Civil Procedure 12(b)(1), defendant moves to dismiss, claiming
 14 that this court lacks subject-matter jurisdiction. Defendant argues that plaintiff is asking the court
 15 to review both the Supreme Court of California's application of state rules and procedures and the
 16 court's judgment itself.² ECF No. 12 at 11-16. Under the *Rooker-Feldman* doctrine, federal
 17 courts cannot adjudicate constitutional claims that “are inextricably intertwined with the state
 18 court's denial in a judicial proceeding of a particular plaintiff's application [for relief].” *D.C.*
 19 *Court of Appeals v. Feldman*, 460 U.S. 462, 483 n.16 (1983); *see also Bianchi v. Rylaarsdam*,
 20 334 F.3d 895, 898 (9th Cir. 2003).

21 It is plaintiff's burden to show that jurisdiction exists. *See Sopcak v. Northern Mountain*
 22 *Helicopter Serv.*, 52 F.3d 817, 818 (9th Cir. 1995). When a defendant argues that a lack of
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24 ² Defendant also argues that the case is moot. ECF No. 12 at 9-11. Under Article III of
 25 the United States Constitution, federal courts lack subject-matter jurisdiction over actions that
 26 have become moot. *See County of Los Angeles v. Davis*, 440 U.S. 625, 631 (1979). A case is
 27 moot if it has “lost its character as a present, live controversy of the kind that must exist if
 28 [Article III courts] are to avoid advisory opinions on abstract propositions of law.” *Hall v. Beals*,
 396 U.S. 45, 48 (1969) (per curiam). As defendant points out, plaintiff seeks injunctive relief
 from a disbarment order that has already taken full effect. Because I base my recommendations
 on the *Rooker-Feldman* doctrine, I do not reach the issue of mootness.

1 subject-matter jurisdiction is apparent from the face of the complaint, the court treats the
 2 complaint's allegations as true and considers them in the light most favorable to the plaintiff. *See*
 3 *Doe v. Schachter*, 804 F. Supp. 53, 56 (N.D. Cal. 1992).

4 **Discussion**

5 Plaintiff challenges defendant's ruling that denied his petition for review of the State Bar's
 6 disbarment recommendation. He claims that defendant is "fully responsible for" the conduct of
 7 the California State Bar Office of the Chief Trial Counsel, since she has "delegated [her]
 8 authority" over the discipline of California-licensed attorneys. *See* ECF No. 9 at 2. He alleges
 9 that the State Bar's findings were "invalid and based on no evidence that he committed any
 10 misconduct," and that defendant's "rubber stamp" of these findings is evidence of "her
 11 indifference to the misconduct of her appointed surrogates." *Id.* at 3-4. As such, plaintiff's case
 12 centers around the State Bar's disciplinary process and decision, and defendant's denial of his
 13 petition for review.³

14 In *Scheer v. Kelly*, 817 F.3d 1183 (9th Cir. 2016), the Ninth Circuit held that the *Rooker-*
 15 *Feldman* doctrine applies to the State Bar of California's disciplinary proceedings and related
 16 petitions for review. *Id.* at 1186. None of the facts alleged by plaintiff meaningfully distinguish
 17 this case from *Scheer*. As in *Scheer*, plaintiff's "challenge to the State Bar's decision in [his] own
 18 case is a de facto appeal of the Supreme Court of California's denial of [his] petition for review
 19 . . . inviting district court review and rejection of the state court's judgments." *Id.* (internal
 20 quotations and citations omitted). Thus, even interpreting the alleged facts in the light most
 21 favorable to the plaintiff, the court lacks subject-matter jurisdiction.⁴ Dismissal is proper under
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23 ³ In his opposition to the motion to dismiss, plaintiff argues that that he accused defendant
 24 of murder in his complaint. ECF No. 15 at 2-3. However, in his amended complaint, plaintiff
 25 included only the conclusory allegation that defendant's "misconduct and malfeasance
 26 contributed [to] the death of" plaintiff's wife, Mary C. Engel, in August 2016. ECF No. 9 at 3.
 It appears that Mrs. Engel's death occurred nearly four years before defendant's denial of
 plaintiff's petition for review. *See id.*

27 ⁴ Plaintiff argues that he is bringing this case as a qui tam action and under the False
 28 Claims Act, and that this gives the court subject-matter jurisdiction. ECF No. 15 at 4-6. But
 regardless of plaintiff's desired enforcement mechanism, the complaint asks the court to review
 state court proceedings and judgments.

1 Federal Rule of Civil Procedure 12(b)(1). I need not reach defendant's other arguments.

2 **Findings and Recommendations**

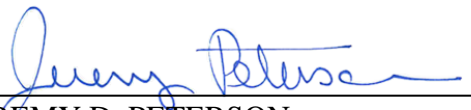
3 Because the court lacks subject-matter jurisdiction, leave to amend would be futile. *See*
4 *Johnson v. Buckley*, 356 F.3d 1067, 1077 (9th Cir. 2004). Therefore, I recommend that

- 5 1. defendant's motion to dismiss, ECF No. 12, be granted;
6 2. plaintiff's amended complaint, ECF No. 9, be dismissed with prejudice; and
7 3. the clerk of the court be directed to close the case.

8 I submit these findings and recommendations to the district judge under 28 U.S.C.
9 § 636(b)(1)(B) and Rule 304 of the Local Rules of Practice for the United States District Court,
10 Eastern District of California. Within 14 days of the service of the findings and
11 recommendations, the parties may file written objections to the findings and recommendations
12 with the court and serve a copy on all parties. That document should be captioned "Objections to
13 Magistrate Judge's Findings and Recommendations." The district judge will review the findings
14 and recommendations under 28 U.S.C. § 636(b)(1)(C).

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16 IT IS SO ORDERED.

17 Dated: August 13, 2021

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19 JEREMY D. PETERSON
20 UNITED STATES MAGISTRATE JUDGE
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